

REPORT

DATE: November 2, 2006

TO: Regional Council
Administration Committee

FROM: Hasan Ikhata, Director of Planning & Policy

SUBJECT: Draft Delegation Agreement re. Regional Housing Needs Assessment

EXECUTIVE DIRECTOR'S APPROVAL

RECOMMENDED ACTION:

To provide direction to staff on issues related to the draft Delegation Agreement relating to the RHNA process.

SUMMARY:

As SCAG undertakes its 4th cycle of the Regional Housing Needs Assessment (RHNA), staff sought information from subregions of their desire to accept delegation in early September 2006. This resulted in nine (9) subregions indicating an interest in delegation. A draft "Delegation Agreement," prepared by SCAG's Legal Department, was circulated to the subregional coordinators on September 28, 2006.

The terms of the draft Delegation Agreement is written to reflect the current situation, such as in the case of the lack of available funding to date to support delegation duties. The terms also require a subregion which accepts delegation to comply with the SCAG Pilot Program, SCAG's RHNA timeline, administer any appeals for local jurisdictions within the subregion, administer alternate distribution of appealed housing allocations, and determine the final allocation of local housing need for the subregion.

At the last Regional Council meeting, the issues relating to funding and indemnification under the draft Delegation Agreement were raised in general terms as part of CFO Wayne Moore's report regarding the RHNA funding strategy for subregions. Since then, staff has requested comments from the subregions regarding the draft Delegation Agreement. Based upon this request, staff understands the following subregions have officially decided not to accept delegation: SANBAG, SBCCOG and Arroyo Verdugo Cities. The WRCOG has also indicated that it will likely not accept delegation. Finally, CVAG indicated that its legal counsel is currently reviewing the draft Agreement, and that CVAG's Technical Advisory Committee will make a formal decision regarding delegation after the draft RHNA numbers are released as part of the Draft Allocation Plan in December 2006.

Because of the apparent interest in delegation, staff seeks direction regarding the funding and indemnification issues. Staff has previously apprised the Administration Committee and the Regional Council about SCAG's funding constraints in undertaking the RHNA for this cycle. It is because of these funding constraints that prevent staff from supporting indemnification (that is, providing and paying for its legal defense) to subregions who accept delegation. However, as represented by staff at the last meeting, the Regional Council has the discretion to direct staff to

REPORT

provide otherwise should it so desire. With respect to the issue of funding for delegation, staff proposes as an alternative to providing no funding that a maximum of \$20,000 be provided to a subregion who accepts delegation, which represents the amount that staff has identified as being available per subregion. With respect to the issue regarding indemnification, staff proposes as an alternative to providing no indemnification that SCAG indemnify the subregion accepting delegation provided it complies with all of the delegation duties under the Agreement up to a certain dollar amount so as to limit SCAG's potential litigation costs.

BACKGROUND:

Delegation to a subregional entity to perform certain obligations required by a council of governments in undertaking the RHNA process is authorized both under the existing state law and SCAG's Pilot Program. During the last RHNA cycle, there were several subregional organizations which accepted delegation. However, the circumstances for this RHNA are very different from the last cycle which makes delegation in general more challenging.

SCAG will undertake the RHNA for this cycle for all subregions which elect not to accept delegation. Because there is currently some interest in delegation, primarily from CVAG, staff seeks direction from the Administration Committee and Regional Council as to the issues of funding and indemnification. The alternatives with respect to these issues are:

1. Provide no funding and no indemnification to any subregion accepting delegation; or
2. Provide funding to the subregion in the maximum amount of \$20,000, and indemnify the subregion accepting delegation provided it complies with all of the delegation duties under the Agreement up to a certain dollar amount so as to limit SCAG's potential litigation costs.

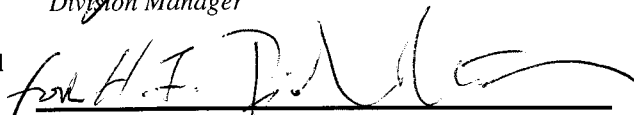
FISCAL IMPACT:

Negotiation of the draft Delegation Agreement is funded by the general fund appropriation previously approved by the Regional Council on September 14, 2006 for RHNA activities. This amount does not take into account delegation, and therefore, funding for subregions who accept delegation would require another appropriation from the Regional Council. The potential costs to provide indemnification cannot be determined at this time; however, staff does recommend capping these costs so as to limit SCAG's potential litigation costs.

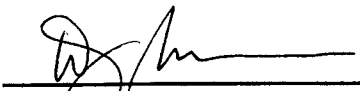
Reviewed
by:


Lynn Harris
Division Manager

Affirmed
by:


for H.I. D. [unclear]
Department Director

Affirmed
by:


[unclear]
Chief Financial Officer